DOCKET NO.: MSFT-0323/167389.01
Application No.: 09/838,436
Office Action Dated: May 30, 2007

PATENT
REPLY FILED UNDER EXPEDITED
PROCEDURE PURSUANT TO
37 CFR § 1.111

REMARKS

The Applicant would like to thank Examiner Melvin Pollack for considering the previous response, which included a 37 C.F.R. § 1.131 declaration. These remarks are a response to the latest office action, dated May 30, 2007. These remarks address each point of the office action in a corresponding order thereto.

First, the Applicants would like to thank the Examiner for withdrawal of the finality of the previous office action. The Applicants explain below why the March 9, 2007 filed declaration is effective to overcome the Girardot reference, and why there is enough evidence to establish a conception of the invention and any accompanying diligence.

Regarding the establishment of conception, the Applicants would like to turn the Examiner's attention to Appendix B, and compare Appendix B to portions of the specification, for instance, p. 16, l. 11 to 26, l. 20. In the specification, the various texts and tables appear verbatim on the cited pages and in Appendix B. Appendix B goes on to disclose various implementation details, just as in the specification. Thus, the conception of tokenization, parsing, etc., is clearly disclosed by Appendix B. Moreover, Appendix C clearly shows that this document in Appendix B was created at least on October 27, 1999 at 2:45:00 PM. Therefore, the conception is established, both substantively and temporally.

Next, regarding the Examiner's point regarding failure to show due diligence, the applicants turn the Examiner's attention to MPEP § 2138.06, especially to the section entitled: "END OF DILIGENCE PERIOD IS MARKED BY EITHER ACTUAL OR CONSTRUCTIVE REDUCTION TO PRACTICE." The examiner has required the applicants to show diligence up to the constructive reduction to practice (the filing date of April 19, 2001). However, all the applicants have to show is diligence up to the actual reduction of practice. As the applicants have stated in the declaration, the product containing the recited subject matter (XML tokenization technology) was shipped in August of 2000, at which point it was already actually reduced to practice.

Microsoft's press announcement regarding the shipping date was August 7, 2000. Please see: http://www.microsoft.com/presspass/press/2000/Aug00/SQLServerPR.mspx. A

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hardcopy printout is provided as Appendix E; this appendix follows Appendices A-D filed on March 9, 2007.

As to the inquiry why the affidavit has surfaced only now, since the Applicants have already received three final rejections and a multitude of remarks and telephonic interviews have not been effective, this is one of the avenues left for expediting prosecution.

Lastly, the Applicants are thankful the for great patience and effort expanded by the Examiner in the present prosecution process. For the Examiner's convenience, the inventor's declaration is attached once again, along with Appendix E.

Claim Rejections – 35 U.S.C. § 101

Claims 11, 12-15, 16-19, 20-22, and 37 have been appropriately amended to overcome the § 101 rejection.

Claim Rejections – 35 U.S.C. § 102

The rejections under § 102 do not apply in light of prior inventorship established by the above mentioned 1.131 declaration.

Should there be any questions or concerns, the undersigned can be contacted at 206-903-2461.

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CONCLUSION

Applicants believe that the present Amendment is responsive to each of the points raised by the Examiner in the Office Action, and submit that all the pending claims of the Application are in condition for allowance. Favorable consideration and passage to issue of the application at the Examiner's earliest convenience is earnestly solicited.

Date: November 29, 2007

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APPENDIX E

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Microsoft SQL Server 2000 Enters Production, Ships to Early Adopters

Customer Applications, Partners to Be Highlighted In Sept. 26 Enterprise 2000 Launch

REDMOND, Wash., Aug. 7, 2000 — Microsoft Corp. today announced that following the release of Microsoft® SQL Server™ 2000 to manufacturing, over 100 enterprise customers will be going live on SQL Server 2000 over the next three months as part of a Rapid Deployment Program supported by Microsoft. In addition, Microsoft revealed that a select group of customers has been in production on SQL Server 2000 for up to six months as part of an Early Adopter Program. These customer applications will be among the many featured in the Enterprise 2000 launch on Sept. 26, 2000, which will unveil the first customer successes built on the recently announced .NET Platform.

SQL Server 2000, the first .NET enterprise server product, is the data management and analysis backbone for the coming wave of .NET applications and services. It is tailored to rapidly deliver Web-enabled applications for e-commerce, data warehousing and line of business that are highly scalable and reliable.

"SQL Server 2000 has received unprecedented quality-assurance testing," said **Paul Flessner, vice president of .NET enterprise servers at Microsoft. "We have worked with tens of thousands of beta customers; we have been running two of the top 10 Internet retailers in production for over three months; we have 20 other customers running their mission-critical business operations on SQL Server 2000; and Microsoft has been running all its own critical business operations on SQL Server 2000 for more than six months. This product is ready to go, and we will continue to invest resources to ensure that quality improves with every release of Microsoft SQL Server."**

A Database Platform for E-Commerce

A comprehensive set of features in SQL Server 2000 ensures that organizations have the support they need to Web-enable existing systems as well as build new applications. Integrated XML support allows database and application developers to easily store XML in the database or retrieve data in XML format - enabling fast application-to-application integration and Web site flexibility. Additional self-management and tuning, improved programmability, and datacenter management capabilities help ensure that enterprises and dot-coms can deliver e-commerce applications to customers and partners quickly and reliably.

"Using SQL Server 2000, we were able to launch a new, highly reliable Web business in record time," said Lyle Anderson, chief information officer of TV Guide Online. "With features such as integrated XML support, we will be able to enhance future versions of our site even more quickly."

Integrated Business Intelligence Capabilities

SQL Server 2000 extends the integrated business intelligence and data warehousing capabilities of SQL Server with improved data transformation tools, advanced data analysis and highly scalable online analytical processing (OLAP). Data mining - a new feature in SQL Server 2000 - is used to detect trends that would otherwise go unseen in large quantities of data. Moreover, with the ability to expose analytical information over the Internet, true Web-based access to analysis solutions will be possible, even through firewalls.

"SQL Server 2000 has allowed us to deliver Alinea, a proactive Web-based business analysis capability, to our Fortune 500 consumer packaged goods customer base through a secure and personalizable Internet portal," said Doug Bordner, vice president of technology at Inmar Enterprises Inc. "Looking forward, we see opportunities to incorporate additional capabilities such as data mining and Internet-linked cubes, which can add even greater value to the services we provide."

Line-of-Business Leadership

Demonstrating its scalability and performance in a number of transaction-processing scenarios, SQL Server has earned an impressive slate of record-setting benchmarks:

- Four of the top-five TPC-C industry-standard transaction processing performance records as well as the best price/performance for TPC-C

- Record performance results on enterprise resource planning (ERP) benchmarks from ISVs including SAP AG, PeopleSoft Inc., J.D. Edwards & Co. and Baan Co. NV

- Record performance results on customer relationship management (CRM) benchmarks from Pivotal Corp. and Onyx Software Corp.

In e-commerce and transactional systems, SQL Server 2000 on industry-standard hardware has proven to be more capable than its competitors on the largest UNIX systems.

"We've been running our business on SQL Server 2000 and J.D. Edwards One World software for the past six months," said Lee Fromson, vice president and chief financial officer of Cascade Designs Inc. "SQL Server has proven that it can meet our current requirements and also provide all the headroom we need for future growth."

About SQL Server

Created by a world-class development team, Microsoft SQL Server is the leading database for the Windows® platform and is a core part of the .NET enterprise servers, Microsoft's comprehensive family of server applications for quickly building, deploying and managing scalable, integrated Web-based solutions and services.

About Microsoft

Founded in 1975, Microsoft (Nasdaq "MSFT") is the worldwide leader in software, services and Internet technologies for personal and business computing. The company offers a wide range of products and services designed to empower people through great software - any time, any place and on any device.

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